

Notice of Allowability

Application No.

10/663,368

Examiner

Kianni C. Kaveh

Applicant(s)

SAYYAH, KEYVAN

Art Unit

2883

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 9/27/05 and 7/14/05.
2. ☒ The allowed claim(s) is/are 15-38.
3. ☒ The drawings filed on 16 September 2003 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date 10
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.


KAVEH KIANNI
PRIMARY EXAMINER

Art Unit: 2883

- Applicant's election without traverse of claim 3 in a paper submitted on 7/14/05 is acknowledged. However, upon close examination of the previous restriction requirement, submitted to applicant by a junior examiner on 6/30/05, it was determined that the restriction was in error and thus the restriction was vacated and instead a new restriction requirement was proposed to the applicant on 9/25/05 by the current examiner of the application as follows:

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-14, drawn to a method for frequency tuning of a photonic oscillator including the step of adjusting a frequency of an output signal of the photonic oscillator by adjusting a bias voltage of a first amplifier amplifying the electric signal, classified in class 385, subclass 2.
- II. Claims 15-38, drawn to a photonic oscillator including, a bandpass filter coupled between the photodetector and the optical modulator and a control circuit coupled to the first amplifier constructed so as to be capable of adjusting a bias power to the first amplifier to shift a frequency of an output of the photonic oscillator, classified in class 385, subclass 14/15.

The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case the apparatus of invention II can be used as filtering device for

Art Unit: 2883

filtering optical noise in the output frequencies of photonic oscillator rather than as mere frequency tuning of a photonic oscillator as claimed in invention I.

Thus, each group, having different limitations, require a different search than that of other invention.

Because these inventions are distinct for the reasons given above and the search required for Group I is not required for Group II, restriction for examination purposes as indicated is proper.

During a telephone conversation with Mr. Balzan on September 27, 2005 a provisional election was made with traverse to prosecute the invention of Group II, claims 15-38. Affirmation of this election must be made by applicant in replying to this Office action. Claims 1-14 were withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Mr. Balzan on September 28, 2005 so as to cancel non-elected claims and facilitate allowance the case.

Please cancel claims 1-14

Reason for Allowance

Claims 15-38 are allowed for the following reasons:

The instant application is deemed to be directed to a nonobvious improvement over the invention patented in Pat. No. Yao et al. (US 6873631).

Claims 15-29 are allowed because the prior art of record, taken alone or in combination, fails to disclose or render obvious a control circuit coupled to the first amplifier constructed so as to be capable of adjusting a bias power to the first amplifier to shift a frequency of an output of the photonic oscillator in combination with the rest of the limitations of the base claim.

Claims 30-35 are allowed because the prior art of record, taken alone or in combination, fails to disclose or render obvious a means for shifting a frequency of an output of the photonic oscillator comprising a bias power adjusting means allowing adjustment of the bias power to the first amplifier in combination with the rest of the limitations of the base claim.

Claims 36-38 are allowed because the prior art of record, taken alone or in combination, fails to disclose or render obvious a control circuit capable of adjusting a bias power to the first amplifier so as to shift a frequency of an output of the photonic oscillator, *the control circuit being responsive to a frequency lock loop circuit* in combination with the rest of the limitations of the base claim.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany

the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Citation of Relevant Prior Art

Prior art made of record and not relied upon is considered pertinent to applicant's disclosure. In accordance with MPEP 707.05 the following references are pertinent in rejection of this application since they provide substantially the same information disclosure as this patent does. These references are:

US 6580532 B1 Yao

US 6567436 B1 Yao

5777778 Yao

US 6337660 B1 Esman et al.

US 2004/0264977 Yap et al.

US 6891149 Lewis et al.

These references are cited herein to show the relevance of the apparatus/methods taught within these references as prior art.

Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to K. Cyrus Kianni whose telephone number is (571) 272-2417.

The examiner can normally be reached on Monday through Friday from 8:30 a.m. to 6:00 p.m. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Frank Font, can be reached at (571) 272-2415.

Any response to this action should be mailed to:

Art Unit: 2883

Commissioner of Patents and Trademarks

Washington, D.C. 20231

or faxed to:

(703) 872-9306 (for formal communications intended for entry)

or:

Hand delivered responses should be brought to Crystal Plaza 4, 2021 South Clark Place, Arlington, VA., Fourth Floor (Receptionist).

Any inquiry of a general nature or relating to the status of this application should be directed to the Group Receptionist whose telephone number is (703) 308-0956.



K. Cyrus Kianni
Primary Patent Examiner
Group Art Unit 2883

**KAVEN KIANNI
PRIMARY EXAMINER**

September 29, 2005